

REMARKS:

In view of the following remarks, reconsideration and withdrawal of the outstanding Office Action rejections is respectfully requested.

Claim Rejections under 35 USC § 103(a)

The Examiner has rejected claims 1, 2, 7, 11, 13 and 15-22 under 35 USC 35 USC § 103(a) as being rendered obvious over Anon (Research Disclosure 451014; attached to the Office Action) in view of Baltruschat (US Patent No. 6,683,027). Anon is directed to herbicides generally that can be mixed together to form synergistic agrochemicals. Anon also discloses the structures of picolinafen and tritosulfuron. Baltruschat is directed to synergistic herbicidal compositions. The Examiner argues that, while Anon does not disclose a formulation comprising a combination of picolinafen and tritosulfuron, Baltruschat does suggest this composition, and that one of skill in the art would combine the two disclosures to arrive at the presently claimed subject matter. Applicants traverse.

The Examiner has repeated this rejection from the last Office Action. In response to that Office Action, Applicants submitted additional data showing the synergistic properties of the combination of picolinafen and tritosulfuron. However, the Examiner was not persuaded by this data, instead arguing that it was not convincing because some of the results obtained using the elected compositions are not synergistic. Thus, the Examiner argues that “no clear trend of synergy has been established” for the claimed combination. The Examiner did not elaborate on this argument, but he seems to be referring to the data in Table 1 which shows a synergistic effect when the claimed combination is applied to

POLCO (wild buckwheat), SONAR (field sowthistle), MATIN (scentless mayweed) and GALAP (cleavers), but not for TRZAW (winter wheat). Specifically, the Examiner seems to be arguing that the claimed combination is synergistic for some, but not all, plants, and accordingly that the unexpected results do not occur over the entire claimed range of subject matter.

The Examiner seems to have misconstrued the data in Table 1. As discussed in the specification, the claimed herbicidal compositions are intended to destroy undesirable weeds which are growing together with desirable crop plants. Thus, when the herbicidal combination is applied to a mixture of crop and weed plants, it should have no effect on the crop plant, while killing the weed plant. Referring back to Table 1, the data shows that a combination of picolinafen and tritosulfuron has no or very little effect on TRZAW, which is a crop plant, while showing a synergistic effect when applied to POLCO, SONAR, MATIN and GALAP, all of which are weed plants. Therefore, the data in Table 1 supports the concept that the herbicidal mixture should only kill weeds. This unexpected selectivity of the claimed combination would not be obvious to one of ordinary skill in the art, when considering the disclosures of Anon and Baltruschat, whether considered alone or in combination. Accordingly, this rejection should be withdrawn.

In view of the foregoing, it is submitted that the present application is now in condition for allowance. Reconsideration and allowance of the pending claims are requested. The Director is authorized to charge any fees or credit any overpayment to Deposit Account No. 02-2135.

Respectfully submitted,

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